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AMIN, TUROCY & CALVIN, LLP			EXAMINER	
24TH FLOOR, NATIONAL CITY CENTER			HOTTLE, RAHEEM	
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CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			2165	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doctet1@thepatentattorneys.com

hholmes@thepatentattorneys.com

osteuball@thepatentattorneys.com

### Office Action Summary

**Application No.**

10/824,961

**Applicant(s)**

MINIUM ET AL.

**Examiner**

RAHEEM HOFFLER

**Art Unit**

2165

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-16, 19-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-16, 19-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**Detailed Action**

***Response to Amendment***

The Office Action has been filed in response to amendment filed 4 January 2008. Rejection to Claim 1 under 35 USC 112 has been withdrawn.

Applicant's arguments with respect to the rejection under 35 U.S.C. § 102 and 103 have been considered but are moot in view of the new ground(s) of rejection. Accordingly, this action has been made Non-Final.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-15 are vague and indefinite because the steps in the body of the claim recite the limitation of "means for..." which has been reasonably construed as the attempt by Applicant to invoke 35 U.S.C. 112, sixth paragraph. However, the metes and bounds of the claim have not been specifically defined for the limitation of "means for..." in the specification. The instant disclosure does not define the structures necessary for each "means for 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to

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set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc). (See MPEP 2181 [R-2]).

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 & 3-15 of the claimed invention is directed to non-statutory subject matter. Claim 1 and 11 make claim to a plurality of software components and a classification component, but fail to include any type of hardware. Therefore, Claims 1 & 3-15 comprise software *per se*.

#### **Software, *per se*:**

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

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Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

### Claim Rejections – 35 USC 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 6, 16, 20, & 26 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Meik et al (USPG Pub No. 20050108200A1; Meik hereinafter)

As for Claim1, Meik et al teaches of a distributed classification system comprising a plurality of software components shared by unrelated software design tools, stored in a computer readable storage medium and executable by a processing device (see Fig. 1; e.g., object types; (see paragraph [0155-0160], [0167-0185]; e.g., filtering module;

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design tools can be broadly interpreted to be any type of tools or modules or components that interact with the classification system and manipulate objects and information into a desired shape or format))

and a classification component that couples the software components to a common classification structure based on a structure type comprising structure type class, node types and structural constraints (see paragraph [0008-0014], [0037], [0122-0129]; e.g., search engine component that performs all of the duties of classification and categorization), the structural constraints define the permissible parent-child relationship between the various node types and wherein a plurality of applications access the software components (see paragraph [0052], [0258], [0262]; e.g., parent-child relationship involving nodes).

As for Claim 3, Meik et al teaches the classification structure is hierarchical (see Abstract; see paragraph [0064-0065], [0095]; e.g., hierarchical structure).

As for Claim 4, Meik et al teaches the software components are associated with classification nodes (see paragraph [0052], [0258], [0262]; e.g., parent-child relationship involving nodes).

As for Claim 6, Meik et al clearly teaches a graphical user interface is employed by a user to classify software components (see paragraph [0186-0190], [0214]; e.g., GUI).

As for Claim 16, Meik et al teaches a common classification methodology comprising generating one or more taxonomies comprising defining node types, structure type classes and structural constraints, wherein the parent-child relationship between the various node types is specified by the structural constraints; (see paragraph [0008-0014], [0037], [0122-0129]; e.g., search engine component that performs all of the duties of classification and categorization), maintaining the taxonomies to facilitate interaction with taxonomy artifacts by a plurality of unrelated software design tools (see paragraph [0155-0160], [0167-0185]; e.g., filtering module)).

Claim 20 differs from Claim 6 in that claim 20 is a method claim whereas claim 6 is a system claim. Thus, claim 20 is analyzed as previously discussed with respect to claim 6 above.

As for Claim 26, Meik et al clearly teaches the taxonomy is represented in XML (see paragraph [0303]; e.g., XML).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 9-12, 14-15, 21, 23-25, 27, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meik et al (USPG Pub No. 20050108200A1; Meik hereinafter) in view of Gargi et al (USPG-Pub No. 20050027712A1; Gargi hereinafter).

As for Claim 11, Meik explicitly recites "a means for maintaining the common classification scheme to provide a foundation for a cohesive user experience and wherein the plurality of unrelated software design tools access the components. (see Fig. 1 & 4; (see paragraph [0155-0160], [0167-0181], [0186-0190]; e.g., whereas the cohesion of the plurality of modules that perform the tasks of classification and categorization of information at the users request, as well as the utilization of customized user interfaces allowing for the ease of use in order to locate a desired result while interacting with numerous software applications, is equivalent to Applicant's teachings of providing a cohesive user experience through the inclusion of unrelated software design tools).

The missing of Meik is the limitation of "a software tool interaction system



comprising a means for generating a common classification scheme amongst a plurality of unrelated software tools stored in a computer readable medium, wherein the classification is based on a structure type and comprises structure type class, node types and structural constraints, the structural constraints.”

Gargi et al explicitly recites, “a software tool interaction system comprising a means for generating a common classification scheme amongst a plurality of unrelated software tools stored in a computer readable medium, wherein the classification is based on a structure type and comprises structure type class, node types and structural constraints, the structural constraints (see paragraph [0012], [0072-0076]; whereas Gargi et al teaching of clusters, meta data and hierarchy is equivalent to Applicant’s teaching of hierarchy, class and constraints) define the permissible parent-child relationship between the various node types”; (see Fig. 15; e.g., object types; (see paragraph [0096][0105][0113]))

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined classification based interactive system for information retrieval as taught by Meik with the organizing a collection of objects as taught by Gargi et al in order to improve the precision of searching, thereby minimizing browse time and false hits without suffering a corresponding reduction in the relevant document recall rate (see Meik; paragraph [0079]).

As for Claim 28, Meik explicitly recites “exposing the common structure amongst a plurality of unrelated software design tools to provide a foundation for a cohesive user

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experience and wherein the plurality of tools access the components.” (see Fig. 1 & 4; (see paragraph [0155-0160], [0167-0181], [0186-0190]; e.g., whereas the cohesion of the plurality of modules that perform the tasks of classification and categorization of information at the users request, as well as the utilization of customized user interfaces allowing for the ease of use in order to locate a desired result while interacting with numerous software applications, is equivalent to Applicant’s teachings of providing a cohesive user experience through the inclusion of unrelated software design tools).

The missing of Meik is the limitation, “a common enterprise classification scheme methodology comprising instantiating a common structure based on a structure type, the common structure comprising structure type class, node types and structural constraints.”

Gargi et al explicitly recites, “a common enterprise classification scheme methodology comprising instantiating a common structure based on a structure type, the common structure comprising structure type class, node types and structural constraints (see paragraph [0012], [0072-0076]; whereas Gargi et al teaching of clusters, meta data and hierarchy is equivalent to Applicant’s teaching of hierarchy, class and constraints), the structural constraints define the permissible parent-child relationship between the various node types; (see Fig. 15; e.g., object types; (see paragraph [0096][0105][0113])).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined classification based interactive system for information retrieval as taught by Meik with the organizing a collection of objects as

taught by Gargi et al in order to improve the precision of searching, thereby minimizing browse time and false hits without suffering a corresponding reduction in the relevant document recall rate (see Meik; paragraph [0079]).

As for Claim 7, Gargi et al clearly teaches a user drags and drops components onto a classification node (see Fig. 2 (164) e.g., layout engine; see paragraph [0085]).

As for Claim 9, Gargi et al clearly teaches a notification component that notifies consumers of the common structure of proposed changes to the structure to give them an opportunity to veto the change (see Fig. 16 (62-78); (see paragraph [0107][0108][0112] and [0114]; e.g., notification service)).

As for Claim 10, Gargi et al clearly teaches a notification component that alerts consumers of the common structure of a change (see Fig. 16 (62-78); (see paragraph [0107][0108][0112] and [0114])).

As for Claim 12, Gargi explicitly recites, "drag and drop artifacts onto classification nodes" (see Fig. 2 (164) e.g., layout engine; see paragraph [0085]). The missing of Gargi is "a user generating a classification scheme employing a graphical user interface". Meik explicitly recites of a user generating a classification scheme employing a graphical user interface (see paragraph [0122-0129]).

Claims 14 and 15 differ from Claims 9 and 10 in that claims 14 and 15 are software tool interaction system whereas claims 9 and 10 are classification system claims. Thus, claims 14 and 15 are analyzed as previously discussed with respect to claims 9 and 10 above.

Claim 21 differs from Claim 7 in that claim 21 is a method claim whereas claim 7 is a system claim. Thus, claim 21 is analyzed as previously discussed with respect to claim 7 above.

As for Claim 23, Gargi et al teaches maintaining the taxonomies (e.g., clusters or groups; see paragraph [0049]) includes notifying a user or owner of classifiable artifacts of changes to the taxonomy (see Fig. 16 (64); see paragraph [0107]).

As for Claim 24, Gargi et al teaches a before change event is raised prior to a change to provide owners with an opportunity to veto proposed changes (Fig. 16 (62-78); (see paragraph [0107][0108][0112] and [0114])).

As for Claim 25, Gargi et al teaches an after change event is raised to all owners to enable them to reflect a change that has been completed (Fig. 16 (62-78); (see paragraph [0107][0108][0112] and [0114])).

As for Claim 27, Gargi et al teaches a computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 16 (see paragraph [0041]).

Claim 30 differs from claims 6 and 20 in that claim 30 is a common enterprise classification scheme method whereas claim 6 is a system and claim 20 is a common classification method claim. Thus, claim 30 is analyzed as previously discussed with respect to claims 6 and 20 above.

As for Claim 31, Gargi et al clearly teaches requesting consent from consumers of the common structure to proposed changes to the structure (see Fig. 16 (62-78); (see paragraph [0107][0108][0112] and [0114])).

As for Claim 32, Gargi et al clearly teaches a computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 28 (see paragraph [0041]).

Claims 5, 8, 13, 19, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meik et al (USPG Pub No. 20050108200A1; Meik hereinafter) in view of Gargi et al (USPG-Pub No. 20050027712A1) further in view of Omoigui et al (USPG-Pub No. 20030126136A1).

As for Claim 5, Meik et al teaches of the use of a hierarchical structure consisting of object types, a graphical user interface, a plurality of software components as well as a plurality of unrelated software design tools in interacting for the purpose of classification and categorization of information.

Gargi et al teaches of organizing a collection of objects through classification nodes, and a segmentation engine (e.g., taxonomy engine). Both Gargi et al and Meik et al fail to explicitly teach of a globally unique identifier (GUID) being incorporated into his art. Omoigui et al teaches of a globally unique identifier (see paragraph [0982]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined a globally unique identifier as taught by Omoigui et al with the organizing a collection of objects as taught by Gargi et al because it is a preferable file naming method, as made hackneyed in the state of the art. (Omoigui et al (USPG-Pub No. 20030126136A1); see paragraph [0982]).

As for Claim 8, Meik et al teaches of a plurality of software components as well as a plurality of unrelated software design tools in interacting for the purpose of classification and categorization of information. Gargi et al teaches of the classification component utilizing statistical analysis related to artificial intelligence to couple software components to the common structure (see Fig. 17 (120); e.g., Business Process Cockpit; (see paragraph [0043][0110][0112] and [0114])). Both Gargi et al and Meik et al fails to explicitly recite the limitation of heuristics. Omoigui et al teaches heuristics to

couple software components to a common structure (see paragraph [0622][1048]).

Claim 13 differs from Claim 8 in that claim 13 is a software tool interaction system whereas claim 8 is a classification system claim. Thus, claim 13 is analyzed as previously discussed with respect to claim 8 above.

As for Claim 19, Meik et al teaches of a plurality of software components as well as a plurality of unrelated software design tools in interacting for the purpose of classification and categorization of information. Gargi et al teaches of node (e.g., classification nodes; see paragraph [0106][0107]) in a taxonomy (e.g., object cluster or group; see paragraph [0049]). Both Gargi et al and Meik et al fail to explicitly teach of a globally unique identifier (GUID) being incorporated into his art. Omoigui et al teaches of a globally unique node identifier (see paragraph [0982]).

Claim 22 differs from Claims 8 and 13 in that claim 22 is a method claims whereas claim 8 is a distributed classification and claim 13 is a software tool interaction system claim. Thus, claim 22 is analyzed as previously discussed with respect to claims 8 and 13 above.

***Response to Arguments***

Applicant's arguments with respect to Claims 1, 3-16, 19-28 & 30-32 have been fully considered but are considered moot in view of the new grounds of rejection.

With respect to Applicant's argument that:

"Gargi et al. fails to teach or suggest such novel features recited in the subject claims. Thus, Gargi et al. is silent regarding comprising a plurality of software components' shared by unrelated software design tools', stored in a computer readable medium and a classification component that couples the software components' to a common classification structure based on a structure type and comprising structure type class; node types and structural constraints; the structural constraints' define the permissible parent-child relationship between the various node types as recited by the amended subject claims."

Examiner is not persuaded. The above argument is not persuasive because the Gargi reference does teach of the various limitations mentioned by the Applicant. Paragraphs [0098-0099] teach of a plurality of software components that are managed by an object management node. The object management node comprises an object manager that organizes all forms of digital content. The objects can be managed locally or remotely over a global communications network, in which they can interact with a plurality of unrelated tools or components, equivalent to Applicant's teachings. Paragraph [0041] discusses the limitation of a "computer readable medium". Gargi also reads on the limitation of a classification component. Gargi teaches of utilizing a method of organizing a collection of objects through the segmentation of clusters and the use of metadata. The layout engine taught in paragraph [0071], extracts content-related metadata that is associated with the objects and is parsable into multiple levels



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of a name hierarchy, therefore defining the "permissible parent-child relationship between the various node types" as taught by Applicant. Examiner maintains rejection.

With respect to Applicant's argument that:

"Gargi *et al.* and Omoigui *et al.*, alone or in combination, do not teach or suggest all aspects set forth in the subject claims. Claims 5, 8, 13, 19 and 22 depend from independent claims 1, 11, and 16 respectively. As discussed *supra*, Gargi *et al.* does not disclose all the features of independent claims 1, 11 and 16. Omoigui *et al.* relates to knowledge retrieval, management and presentation of domain specific semantic information and fails to make up for the aforementioned deficiencies of Gargi *et al.* with respect to the independent claims. Thus, applicants' invention as recited in the subject claims is not obvious over the combination of Gargi *et al.* and Omoigui *et al.* Accordingly, it is respectfully submitted that this rejection should be withdrawn."

Examiner is not persuaded. The above argument is not persuasive because the primary reference of Gargi in combination with reference Omoigui does teach of the various limitations mentioned by Applicant. Gargi teaches of the classification of various digital components that can interact with numerous digital tools over a network, while Omoigui teaches of retrieval, management, delivery and presentation of those classified digital objects, therefore making the combined references' teachings equivalent to Applicant's teachings.

### **Conclusion**

The prior art made of reference and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAHEEM HOFFLER whose telephone number is (571)270-1036. The examiner can normally be reached on 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on (571) 272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raheem Hoffer/  
Examiner, Art Unit 2165  
/H. Q. P./  
Primary Examiner, Art Unit 2168  
  
/Christian P. Chace/

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Supervisory Patent Examiner, Art Unit 2169